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# A rebuttal to critics of the nuclear weapon ban treaty

EXPERT COMMENTARY

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In their *Bulletin* [article \(https://tinyurl.com/ya7j8act\)](https://tinyurl.com/ya7j8act) of July 16, Scott Sagan and Benjamin Valentino critique the newly negotiated nuclear weapons prohibition treaty as a lost opportunity. They raise important points about nuclear risk reduction for the treaty’s supporters to consider—but the overall thrust of the article is misplaced.

The argument exhibits four main problems. First, Sagan and Valentino conflate symptom and cause when they argue that the prohibition treaty is divisive and counterproductive. The [humanitarian initiative \(http://bit.ly/2tTONnA\)](http://bit.ly/2tTONnA) and the prohibition treaty it has generated are symptoms of deep and growing division within the Nuclear Non-Proliferation Treaty (NPT), not a cause of division. The division is rooted in disillusionment over the very limited progress that nuclear-armed states have made toward the disarmament steps agreed at the 1995, 2000, and 2010 NPT review conferences—and disillusionment over the prospect that nuclear-armed nations will possess nuclear weapons permanently. It is difficult to argue that the prohibition treaty is counterproductive to further disarmament steps when the treaty itself is a symptom of discontent with glacial disarmament progress.

Second, Sagan and Valentino judge the prohibition treaty against an artificial standard when they write that it does nothing to eliminate states’ reliance on nuclear deterrence or to establish a verification system for nuclear disarmament. The UN General Assembly’s [mandate \(https://www.un.org/disarmament/ptnw/\)](https://www.un.org/disarmament/ptnw/) for the prohibition treaty was to “convene in 2017 a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading [toward] their total elimination.” This mandate was based on the report of the [2016 UN Open-Ended Working Group \(http://bit.ly/2tNCSYD\)](http://bit.ly/2tNCSYD) on multilateral nuclear disarmament negotiations. The mandate has been achieved, and this is a significant political accomplishment—but it is only one part of a much broader process of inventing nuclear disarmament.

It was [understood from the outset \(http://bit.ly/2vsd8mA\)](http://bit.ly/2vsd8mA) that the treaty would not and could not be a full nuclear weapons convention with detailed verification procedures. Instead, the prohibition treaty has taken the form of a framework agreement (one of the options highlighted in the report of the Open-Ended Working Group). The agreement leaves the negotiation of verification processes to future protocols reached with nuclear-armed states, if or when they decide to accede. Sagan and Valentino seem to criticize the treaty for failing to provide an alternative global security system, or for failing to be a nuclear environmental rehabilitation treaty. In so doing, they miss both the purpose and context of the prohibition treaty.

The express purpose of *this* treaty was to establish an unequivocal prohibition against nuclear weapons, based on the [unmanageable and unacceptable consequences \(http://bit.ly/2uQv4KC\)](http://bit.ly/2uQv4KC) of their use. It was an effort (supported largely by the Global South) to pursue prohibition as a necessary precursor to elimination. The effort was understood as one example of the “effective measures relating to ... nuclear disarmament” called for in Article VI of [the NPT \(http://www.un.org/en/conf/npt/2005/npttreaty.html\)](http://www.un.org/en/conf/npt/2005/npttreaty.html).

Sagan’s criticism of the prohibition treaty is all the more surprising because he argued in 2009 that [nuclear disarmament is a shared responsibility \(http://ceip.org/2uiL6cU\)](http://ceip.org/2uiL6cU) and that both nuclear-armed and non-nuclear armed states need to contribute to progress on Article VI. This is exactly what the states driving the humanitarian initiative have tried to do—yet somehow it is wrong.

Third, Sagan and Valentino insist that the treaty will be ineffective, but how can this be known in advance and over the long term? The purpose of the treaty is to delegitimize nuclear weapons based on basic principles of international humanitarian, human rights, and environmental law. Can the treaty’s supporters translate its norms into wider political effects that are consistent with the treaty? That remains to be seen. Evidence from other [“humanitarian disarmament” treaties \(http://bit.ly/2tnh7iU\)](http://bit.ly/2tnh7iU) (such as the ban against anti-personnel land mines) and other nuclear initiatives (such as the movement against nuclear testing) certainly suggests it is possible.

But if not this treaty at this time, what? The treaty’s proponents well understand that they are working against powerful vested interests—that they are a relatively disempowered non-nuclear many compared to the empowered nuclear few. But are the 122 states that voted for the treaty expected instead to quietly accept a permanently nuclear-armed world and the dangers that go with it? To advocate only for those changes in nuclear practices that leave the logic of deterrence undisturbed and the legitimacy of nuclear violence intact? To trust the nuclear-armed to manage their arsenals “responsibly”? Are these states not allowed to exercise their collective will through the United Nations—to shift the debate on and context around a difficult transnational problem that affects them just as much as it affects the nuclear-armed? Arguing in advance that the treaty will be ineffective is arguing for the nuclear status quo—a status quo that a great many states find unacceptable.

Finally, Sagan and Valentino seem to reject the idea that nuclear weapons are illegitimate—an idea that underpins the humanitarian initiative and the prohibition treaty. They opt instead for what has been labelled elsewhere [“responsible nuclear sovereignty \(http://bit.ly/2tx1b1q\)”](http://bit.ly/2tx1b1q). But the humanitarian initiative was not about nuancing deterrence and moderating nuclear weapon practices; the [New Agenda Coalition \(http://bit.ly/2uJ8K4u\)](http://bit.ly/2uJ8K4u) and the Non-Aligned Movement have tried that for years. The core rationale of the prohibition treaty is that relying on imperfect deterrence practices seemingly in perpetuity is fundamentally dangerous, given what is known about the likely terrible consequences of even a “limited” nuclear war. The treaty and the humanitarian initiative are grappling with the age-old paradox of nuclear deterrence: that its effects, such as they are, *require* a credible threat to use nuclear weapons. This requirement generates force structures, postures, and crisis behavior that can increase the chances of nuclear weapon use, all in the name of deterrence and security. It is the doctrine of nuclear deterrence that is ultimately the greatest source of nuclear risk—not specific nuclear practices such as expansive targeting or maintaining arsenals on high alert.

Sagan and Valentino argue that risk reduction measures should be prioritized instead of prohibition. But risk reduction and prohibition are not mutually exclusive. The Open-Ended Working Group’s report and the UN mandate for the prohibition treaty negotiations set out and advocated just such measures. Supporters of the humanitarian initiative, in recognition that the initiative isn’t reducible to the prohibition treaty alone, should continue to engage with recommendations for risk reduction, as Sagan and Valentino suggest. But what is essential is that such measures do not reinforce the perceived legitimacy of nuclear weapons—and that they are understood as temporary, pending the total elimination of nuclear weapons as envisioned in the NPT.

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